

# DRAFT

*Testimony of*  
*City of Detroit Chief Financial Officer Norman White*  
*Before The*  
*MI House Intergovernmental and Regional Affairs Committee*

*March 2, 2010 / Noon / Room 327 House Office Building / Lansing, MI 48933*

Chairwoman Donigan and distinguished members of the House Intergovernmental and Regional Affairs Committee ... On behalf of Detroit Mayor Dave Bing and the honorable Detroit City Council, good afternoon and thank you for affording me an opportunity to engage you on House Bills 5731, 5732 and 5733 – legislation to create a Regional Transit Authority in the Detroit metropolitan area.

My name is Norman White. I am currently the Chief Financial Officer for the City of Detroit, but I previously served as Director of the Detroit Department of Transportation (DDOT).

Joining me today is Jeff Boothe, a nationally recognized transit expert who is working with the state's largest municipality on a host of transportation issues, and Charlie Beckham, executive assistant to Mayor Bing.

I know time is of the essence, so I will get right to my brief testimony to allow for questions from the committee.

I would be remiss, however, if I did not take a moment to commend Representatives Bert Johnson, John Switalski and you, Chairwoman Donigan, for attempting to tackle the weighty issue of regional transit. This public policy matter has vexed Southeast Michigan for decades.

Please know that I sincerely respect the authenticity of your efforts, even as I am concerned with the timing and thrust of these bills.

## **QUESTIONABLE TIMING / THE POTENTIAL TO CONFUSE**

Permit me to address the matter of timing first.

As you no doubt already know, the City of Detroit desires a local light rail system on Woodward Avenue from 8 Mile Road to Jefferson Avenue downtown and has petitioned the Federal Transit Administration for financial support under the so-called New Starts Program.

As duly noted on the Federal Transit Administration's website, the New Starts Program is the federal government's "primary financial resource for supporting locally planned, implemented and operated transit guideway capital investments ... (It) has helped to make possible hundreds of new or extended transit fixed guideway systems across the country. These rail and bus investments, in turn, have improved the mobility of millions of Americans; ... helped to reduce congestion; ... improved air quality in the areas they serve; and fostered the development of viable, safer and more livable communities." (SEE ATTACHMENT A)

Please understand that moving House Bills 5731, 5732 and 5733 right now has the potential to hurt the City of Detroit's New Starts application.

That is because the new Regional Transit Authority that the package seeks to create would, among other things, "become the designated recipient ...for federal and state transportation operating and capital assistance grants." (See *Section 8 on Page 14 of House Bill 5731*)

It takes at least a year, however, to become a "designated" grant recipient at the federal level. Thus, if the Legislature creates this new Authority and responsibility for Detroit's proposed local light rail system is transferred to it, the project loses another year's worth of time, minimally.

Furthermore, there already exists in Southeast Michigan an entity that serves as the designated recipient for federal and state transportation resources – the Regional Transit Coordinating Council, or RTCC.

The House bills do not repeal the law (*Public Act 481 of 1988*) that created the RTCC – nor is the City of Detroit asking for that. Rather, we simply want to note the folly of prescribing in statute two entities to serve as the designated recipient for federal and state transportation resources.

Make no mistake: This will further divide any federal monies coming into Southeast Michigan based on existing transit services.

What's more, it will confuse federal transit authorizers and jeopardize the city's New Starts candidacy at a time when we continue to try to quell FTA concerns about how the city's local light rail project will mesh with the so-called M-1 Rail endeavor.

Specifically, M-1 Rail refers to private investors who have proposed constructing a local light rail system on Woodward Avenue from Grand Boulevard to Jefferson Avenue.

The Bing Administration continues to work diligently to combine the private investors' effort with the City of Detroit's, so that one unified voice resonates from Southeast Michigan on the subject of Woodward local light rail.

Indeed, that is something federal regulators have insisted we do, cautioning that evidence of discord among regional leaders could compromise altogether the goal of light rail on Woodward Avenue.

With substantial help from Governor Granholm, Congresswoman Carolyn Cheeks Kilpatrick and Senator Carl Levin, our work culminated recently in the addition of key boilerplate to the FY 2010 federal appropriations bill for the U.S. Departments of Transportation and Housing & Urban Development - now *Public Law 111-117*.

The language effectively authorizes the U.S. Secretary of Transportation to count prospective private or state funding for M-1 Rail as match for the larger City of Detroit Woodward local light rail project. **(SEE ATTACHMENT B)**

Additionally, the Woodward light rail project recently qualified for a \$25 million federal TIGER grant. **(SEE ATTACHMENT B)**

Respectfully, the City of Detroit asks that the Legislature not pass any bills that could jeopardize these hard-fought federal victories.

Moreover, we ask that the Legislature – neither intentionally nor inadvertently – wrest this project from Detroit and vest it in a regional entity that does not exist yet and, by extension, is devoid of any staff to oversee it.

## **NO IDENTIFIABLE FUNDING SOURCE**

Content-wise, this package is deficient, too. For example, the package prescribes no true source of funding for the would-be Authority but, rather, seeks to give it permission to levy a tax. (*See Section 10 on Page 16 of House Bill 5731*)

But affording the Authority the power to tax in today's economic climate is somewhat dubious – perhaps even a bit duplicitous.

To better understand this point, consider that the Michigan Legislature, generally speaking, has opposed efforts to raise taxes, choosing instead to impose deep cuts in a multitude of programs, like municipal revenue sharing.

Even in the face of a staggering \$1.5 billion structural deficit for the forthcoming 2011 fiscal year, the Legislature refuses to raise any tax to support critical state programs – not even fuel and vehicle-registration levies that could generate matching dollars sufficient to forestall Michigan leaving nearly a half billion dollars in federal transportation money on the table.

And let me be real clear here. Contrary to testimony this committee heard last week, it is matching money that Michigan needs to draw down those federal transportation resources – not a Regional Transit Authority.

Indeed, devising ways to generate matching money was essentially the whole purpose for the Transportation Funding Task Force – more commonly known as TF2. A host of bills have been introduced in response to TF2 recommendation. Regrettably, none of them has become law. **(SEE ATTACHMENT C)**

Yet, curiously, we're here today talking about creating a new Authority and giving it taxing power.

Again, respectfully, lawmakers might consider focusing more attention on accessing the federal money that Michigan desperately needs to invest in transportation infrastructure and transit services.

At minimum, the Legislature should disallow this would-be Regional Transit Authority to operate until a dependable statewide or regional funding source

has been identified *and* effectuated. Please know that, absent such an identifiable source of funding, it is unlikely the FTA will recognize this would-be Authority as a designated grant recipient because the entity would have not funding history ... no staff ... and no records to audit to determine its viability.

## GOVERNANCE

The governance structure prescribed by this legislation also gives the City of Detroit pause for concern.

Specifically, the package calls for the would-be Authority to be directed and governed by a board of directors that initially would comprise one appointment each from the Governor, the Mayor of the City of Detroit, the Wayne County Executive, the Oakland County Executive and the chairperson of the Macomb County Board of Commissioners. *(See Section 5 on Page 4 of House Bill 5731)*

It also prescribes a process by which other counties can join the Authority and get representation on the board. And the legislation states that *“All actions of the board ... shall be by simple majority vote of all serving members ...”*

This is in stark contrast to the statute prescribing the aforementioned RTCC, which states: *“The Council shall act by a unanimous vote of its membership ...”*

It's important to note, too, that the RTCC model was used as a template for Southeast Michigan's most recent foray into regional governance – that being the law creating an Authority to manage Cobo Convention Center.

Section 11 of the Regional Convention Facility Authority Act – *now Public Act 554 of 2008* – expressly states: *“All actions of the board under this act shall require the unanimous consent of all serving members ...”*

Which begs the question: If unanimity on board action is good enough for the above-mentioned regional entities, why is it not for the Authority this package seeks to create? **(SEE ATTACHMENT D)**

## **CONSTITUTIONALITY / HOME RULE**

The City of Detroit also is concerned this legislation may infringe on home rule.

Specifically, House Bill 5731, in Section 9, calls for “*whole or partial transfer of operational jurisdiction, management, control, ownership or other interest in ... a public transit system owned or operated by (Detroit), ... notwithstanding any provisions to the contrary ... set forth by law, ordinance or charter.*”

Respectfully, the City of Detroit is a Home Rule City.

It has a Home Rule Charter. **(SEE ATTACHMENT E)**

And it values the time-honored tradition of local control.

## **MISCELLANEOUS**

To be sure, there are other provisions in this package that trouble the city, such as (1) the dearth of language concerning collective bargaining ... (2) what it portends for the division of resources between DDOT and SMART ... and (3) the seemingly counterintuitive inclusion of “*PRIVATELY OWNED* bus, railroad car, (etc.)” in the definition of “*PUBLIC transit*” in House Bill 5731.


We do not, however, wish to belabor the point, which is: The City of Detroit enthusiastically supports the concept of a Regional Transit Authority but believes such an undertaking merits more thought than what’s in this package of bills.

Again, on behalf of City of Detroit Mayor Dave Bing and the honorable Detroit City Council, thank you for your time and consideration of my remarks on this legislation. We are happy to entertain questions.

# ATTACHMENT A







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## Introduction to New Starts

The Federal Transit Administration's (FTA) discretionary New Starts program is the federal government's primary financial resource for supporting locally-planned, implemented, and operated transit "guideway" capital investments. From heavy to light rail, from commuter rail to bus rapid transit systems, the FTA's New Starts program has helped to make possible hundreds of new or extended transit fixed guideway systems across the country. These rail and bus investments, in turn, have improved the mobility of millions of Americans; have helped to reduce congestion and improve air quality in the areas they serve; and have fostered the development of viable, safer, and more livable communities.

The *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)* has authorized \$6.6 billion in New Starts funding through fiscal year 2009. \$600 million of this funding is set-aside for "Small Starts," that is, major transit capital projects costing less than \$250 million, and requiring less than \$75 million in Small Starts resources. While the level of New Starts funding has never been higher, neither has the demand for it. SAFETEA-LU authorizes over 330 projects nationwide to compete for these discretionary federal dollars. Many of these projects are currently in FTA's New Starts pipeline (that is, projects pursuing New Starts funding which are in the preliminary or final design stages of development, or Small Starts projects approved into the single "project development" phase).

SAFETEA-LU directs FTA to evaluate and rate candidate New Starts projects as an input to federal funding decisions and at specific milestones throughout each project's planning and development. SAFETEA-LU further supports a comprehensive planning and project development process which New Starts projects must follow, and which is intended to assist local agencies and decisionmakers evaluate alternative strategies for addressing transportation problems in specified corridors and select the most appropriate improvement to advance into engineering, design, and construction. Planning and project development for New Starts projects is a continuum of analytical activities carried out as part of metropolitan systems planning and *National Environmental Policy Act of 1969 (NEPA)* review processes.

FTA published a Final Rule on Major Capital Investment Projects in 2000 which outlines these New Starts requirements. FTA has also issued guidance on Advancing Major Transit Investments Through Planning and Project Development which provides additional detail on the project development and evaluation processes for fixed guideway transit projects seeking New Starts funding.

On May 22, 2006, and also on June 4, 2007, FTA issued updated guidance on policies and procedures of the New Starts program. SAFETEA-LU requires this guidance be updated at least every two years. FTA intends to issue updated policy guidance in the spring of 2008, which will be preceded by proposed guidance and a public review and comment period. FTA will also publish a new Rule for Major Capital Investment Projects in response to changes specified in SAFETEA-LU to the methods, criteria, and procedures used to evaluate and rate projects proposed for funding under both the New Starts and Small Starts programs. FTA issued a Notice of Proposed Rulemaking in August 2007, followed by a public comment period.

The following describes the planning, project development, evaluation, and budget recommendation processes for fixed guideway transit projects seeking New Starts funding. Please contact us if you have any comments or suggestions on how to improve this site.

### New Starts Criteria

SAFETEA-LU identifies several specific New Starts criteria which the Federal Transit Administration must consider in its approval to advance transit fixed guideway projects through the project development process and enter into a long term financial commitment to implement the proposed investments. The law categorizes these criteria into three broad areas:

#### 1. Alternatives Analysis and Preliminary Engineering.

Along with Final Design, these activities constitute the planning and project development process for New Starts investments. All projects seeking discretionary New Starts funding must follow this process, and FTA must approve project entrance into all but the alternatives analysis phase of planning and development. The planning and project development process is the forum for the development and refinement of the project justification and local financial commitment New Starts criteria (see below), and for addressing other planning, environmental, engineering, and design issues and requirements.

#### 2. Project Justification.

SAFETEA-LU requires that proposed New Starts projects be justified based on several project justification criteria, including the following:

- Mobility Improvements
- Environmental Benefits;
- Operating Efficiencies;
- Cost Effectiveness; and
- Transit Supportive Land Use Policies and Future Patterns

SAFETEA-LU also continues the TEA-21 requirement of considering "other factors."

SAFETEA-LU further requires that FTA consider in its review the economic development effects of New Starts projects. FTA desires through the rulemaking process to work with the industry on the development of appropriate factors for measuring the

economic development effects of candidate projects, and therefore did not consider economic development explicitly in the FY 2008 and FY 2009 evaluation cycles as a specific criteria for evaluation. However, FTA does encourage candidate New Starts project sponsors to submit information which they believe demonstrates the economic development impacts of their proposed transit investments as an "other factor."

### 3. Local Financial Commitment.

SAFETEA-LU requires that New Starts project sponsors demonstrate adequate local support for the project, as measured by:

- The proposed share of total project costs from sources other than from the New Starts program, including federal formula and flexible funds and state and local funding;
- The strength of the proposed project's capital financing plan; and
- The ability of the sponsoring agency to fund operation and maintenance of the entire system – existing and planned – as planned once the guideway project is built.

### Planning and Project Development Process for New Starts Projects

Projects seeking New Starts funding – like all federally-funded transportation investments in metropolitan areas – must emerge from a locally-driven, *multimodal* corridor planning process, as depicted graphically in this [chart](#).

There are three key phases in the planning and project development process for projects seeking New Starts funding: 1) Alternatives Analysis; 2) Preliminary Engineering; and 3) Final Design. These phases are described below.

#### 1. Alternatives Analysis

To specifically qualify for New Starts funding (49 USC §5309), candidate projects must have resulted from an alternatives analysis study (also known as major investment study or multimodal corridor analysis) which evaluates appropriate modal and alignment options for addressing mobility needs in a given corridor. Alternatives analysis can be viewed as a bridge between systems planning (which identifies regional travel patterns and transportation corridors in need of improvements) and project development (where a project's design is refined sufficiently to complete the [NEPA environmental process](#)). The alternatives analysis study is intended to provide information to local officials on the benefits, costs, and impacts of alternative transportation investments developed to address the purpose and need for an improvement in the corridor. Potential local funding sources for implementing and operating the alternatives should be identified and studied, and New Starts criteria should be developed. At local discretion, the alternatives analysis may include the undertaking of a *Draft Environmental Impact Statement* (DEIS). Involvement of a wide range of stakeholders – including the general public – in the alternative analysis study process is strongly encouraged.

Alternatives analysis is considered complete when a locally preferred alternative (LPA) is selected by local and regional decisionmakers and adopted by the metropolitan planning organization (MPO) into the financially constrained long range metropolitan transportation plan. At this point, the local project sponsor may submit to FTA the LPA's New Starts project justification and local financial commitment criteria and request FTA's approval to enter into the preliminary engineering phase of project development.

FTA's [Procedures and Technical Methods for Transit Project Planning](#) provides detailed technical guidance on the alternatives analysis study process. FTA requests the opportunity to review the alternatives analysis study's scope of work, purpose and need, description of alternatives, and technical methodologies and results as they are developed. FTA desires to become involved in these local studies to assist agencies in addressing technical and procedural issues early in the study process (rather than at the end when it may be too late to efficiently solve them) and to gain sufficient understanding of the resulting project to support FTA's decision to advance it into preliminary engineering and, later, final design.

#### 2. Preliminary Engineering

During the preliminary engineering phase of project development, local project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives. Preliminary engineering results in estimates of project costs, benefits, and impacts at a level of detail necessary to complete the [NEPA process](#). The proposed project's New Starts criteria are similarly refined in the preliminary engineering phase of development, project management plans are updated, and local funding sources are committed to the project (if not previously committed).

FTA typically assigns [Project Management Oversight](#) contractors to projects undergoing PE to ensure that the engineering effort progresses in accordance with FTA requirements, and that the project sponsor is adequately preparing for the final design stage of development. Preliminary engineering for a New Starts project is considered complete when FTA has issued a *Record of Decision* (ROD) or *Finding of No Significant Impact* (FONSI), as required by NEPA. Projects which complete preliminary engineering and whose sponsors are determined by FTA to have the technical capability to advance further in the project development process must request FTA approval to enter final design and submit updated New Starts criteria for evaluation.

#### 3. Final Design

Final design is the last phase of project development, and includes right-of-way acquisition, utility relocation, and the preparation of final construction plans (including construction management plans), detailed specifications, construction cost estimates, and bid documents. The project's financial plan is finalized, and a plan for the collection and analysis of data needed to undertake a [Before and After Study](#) – which is required of all projects seeking an FFGA – is developed.

#### Project Justification

SAFETEA-LU's project justification criteria are intended to reflect the broad range of benefits and impacts which may be realized by the implementation of the proposed New Starts transit investment. Project justification criteria are initially developed as part of alternatives analysis and are refined throughout the preliminary engineering and final design phases of project development. FTA periodically issues guidance on the [calculation of project justification measures](#). FTA's New Starts project justification criteria – and the current measures which make up each criteria – are summarized below:

Criterion	Measure(s)
Mobility Improvements	<ul style="list-style-type: none"> <li>Normalized Travel Time Savings (Transportation System User Benefits per Project Passenger Mile)</li> <li>The Number of Transit Dependent Riders Using the Proposed New Starts Project</li> <li>Transit Dependent User Benefits per Passenger Mile on the Project</li> <li>The Share of User Benefits Received by Transit Dependents Compared to the Share of Transit Dependents in the Region</li> </ul>
Environmental Benefits	<ul style="list-style-type: none"> <li>EPA Air Quality Designation</li> </ul>
Cost Effectiveness	<ul style="list-style-type: none"> <li>Incremental Cost per Hour of Transportation System User Benefit</li> <li>Incremental Cost per New Rider (for informational purposes only)</li> </ul>
Transit Supportive Land Use and Future Patterns	<ul style="list-style-type: none"> <li>Existing Land Use</li> <li>Transit Supportive Plans and Policies</li> <li>Performance and Impacts of Policies</li> </ul>
Other Factors	<ul style="list-style-type: none"> <li>Economic Development</li> <li>Making the Case for the project</li> <li>Congestion Pricing</li> <li>Optional considerations.</li> </ul>

#### Local Financial Commitment

The local financial commitment criterion is intended to reflect the level of local funding proposed for the project, and the extent to which this local funding is dedicated to, and in place for, the proposed investment. This criterion also addresses the reasonableness of project cost estimates and revenue forecasts; the adequacy of provisions to address unanticipated costs and funding shortfalls; the financial condition of the New Start project sponsor; and how the sponsor will ensure the operation and maintenance of its entire transit system after implementation of the proposed fixed guideway system.

Like the project justification criteria, information which supports the local financial commitment criteria is refined throughout the planning and project development process. Guidance on the development of [transit financial plans](#) is available from FTA.

The three measures for local financial commitment include:

Criteria	Measure(s)
Local Financial Commitment	<ul style="list-style-type: none"> <li>Stability and Reliability of Capital Financing Plan</li> <li>Stability and Reliability of Operating Financing Plan</li> <li>Local Share of Project Costs</li> </ul>

#### New Starts Evaluation and Rating

FTA evaluates and rates New Starts projects for several specific reasons:

- To approve project entrance into preliminary engineering;
- To approve project entrance into final design;
- As an input to development of the US Department of Transportation's annual New Starts budget request. FTA's ratings are included in the [Annual Report on Funding Recommendations](#), which is submitted to Congress each spring;
- To execute a full funding grant agreement (FFGA).

In undertaking its evaluation, SAFETEA-LU requires that FTA rate each candidate New Starts project (in preliminary engineering or final design) as either *high*, *medium-high*, *medium*, *medium-low*, or *low*. These overall project ratings are based on ratings assigned by FTA to each of the project justification and local financial commitment criteria and their measures described above.


**It is very important to emphasize that project evaluation is an on-going process.** FTA evaluation and rating occurs annually in support of budget recommendations presented in the [Annual Report on Funding Recommendations](#) and when projects request FTA approval to enter into preliminary engineering or final design. Consequently, as proposed New Starts projects proceed through the project development process, information concerning costs, benefits, and impacts is refined and the ratings updated to reflect new information.


#### FTA Budget Recommendations


FTA's ratings are intended to reflect overall project merit; proposed projects that are rated as either *high*, *medium-high*, *medium* have demonstrated significant potential benefits and are therefore eligible for New Starts funding. However, these **project ratings do not translate directly into a funding recommendation or commitment in any given year**. Rather, FTA must also consider the amount of New Starts funding available on an annual basis and the phase of project development of candidate New Starts projects. To be included in FTA's annual budget request, proposed New Starts must also be sufficiently developed for consideration of a federal [full funding grant agreement \(FFGA\)](#) – FTA's funding mechanism for supporting the multi-year capital needs of project construction.

The following general principles are applied when determining annual funding allocations among proposed New Starts projects:

- Any project recommended for new funding commitments should meet the project justification, local financial commitment, and process criteria established by Sections 5309(d) and 5309(e) and be consistent with [Executive Order 12893, Principles for Federal Infrastructure Investments](#), issued January 26, 1994.
- Existing FFGA commitments should be honored before any additional funding recommendations are made, to the extent that funds can be obligated for these projects in the coming fiscal year.
- The FFGA and Project Construction Grant Agreement (PCGA) define the terms of the Federal commitment to a specific project, including funding. Upon completion of an FFGA or PCGA, the Federal funding commitment has been fulfilled. Additional project funding will not be recommended. Any additional costs beyond the scope of the Federal commitment are the responsibility of the grantee, although FTA works closely with grantees to identify and implement strategies for containing capital costs at the level included in the FFGA or PCGA at the time it was executed.
- Funding for initial planning efforts such as alternatives analysis is no longer eligible for Section 5309 funding under SAFETEA-LU, but may be provided through grants under the Section 5303 Metropolitan Planning or Section 5307 Urbanized Area Formula programs; from Title 23 "flexible funding" sources; or from the newly created [Section 5339 Alternatives Analysis program](#).
- Firm funding commitments, embodied in FFGAs or PCGAs, will not be made until projects demonstrate that they are ready for such an agreement, i.e. the project's development and design has progressed to the point where its scope, costs, benefits, and impacts are considered firm and final.
- Funding should be provided to the most worthy investments to allow them to proceed through the process on a reasonable schedule, to the extent that funds can be obligated to such projects in the upcoming fiscal year. Funding decisions will be based on the results of the project evaluation process and resulting project justification, local financial commitment, and overall project ratings.

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# ATTACHMENT B



## NEWS RELEASES

Thursday, December 10, 2009

### **Congresswoman Kilpatrick Forges Deal for Woodward Corridor Light Rail and the City of Detroit**

*Construction for the New Light Rail System Will Be Able to Use Private Matching Funds*

Washington, DC – Congresswoman Carolyn Cheeks Kilpatrick (MI-13), Michigan's sole Appropriator, successfully added an amendment that would allow the City of Detroit to use matching funds for the construction of light rail to the omnibus appropriations bill.

The Congresswoman was appointed to serve on the committee responsible for reviewing and approving the \$450 billion, six-bill appropriations measure. The legislation, a combination of the Transportation/HUD, Labor/HHS/Education, Commerce/Justice/Science, Military Construction/VA, State/Foreign Operations, and Financial Services appropriations bills, marks the completion of the 2009 appropriations process.

"After months of intense negotiations with the House and Senate Appropriators on the Senate Banking Committee and the House Transportation Committee and with the U.S. Department of Transportation, I was able to forge a compromise that will allow matching funds to be used for light rail in Detroit," said Congresswoman Kilpatrick. "It was difficult but necessary to secure this compromise for the citizens, businesses, and economy of Michigan. I am confident that we will be able to break ground on this project by summer."

The compromise, which is included in the final version of the Transportation/HUD Appropriations Conference report, **will allow an estimated \$125 million in private and non-federal public funds to be applied toward the local match for the Woodward Light Rail project.** This initiative marks the first phase of light rail in Detroit and will serve as the basis of the beginning of rapid transit for all of southeastern Michigan.

The provision ensures compliance with all federal environmental, "Buy American," labor protections, and small, minority, and women-owned business inclusions.

"I have always been, and will remain, a strong and strident supporter of light rail in Michigan," said Congresswoman Kilpatrick. "The initiation, planning and funding of the Woodward Light Rail project emanated from my office."

"This conference report is the realization for the people of Detroit that we will no longer be the last major city in North America without a light rail system."

One of the main reasons Michigan is a "donor state" is because it does not get reimbursed for light rail, commuter rail or subway funds. The passage and signing of this bill into law will make Michigan eligible for these funds.

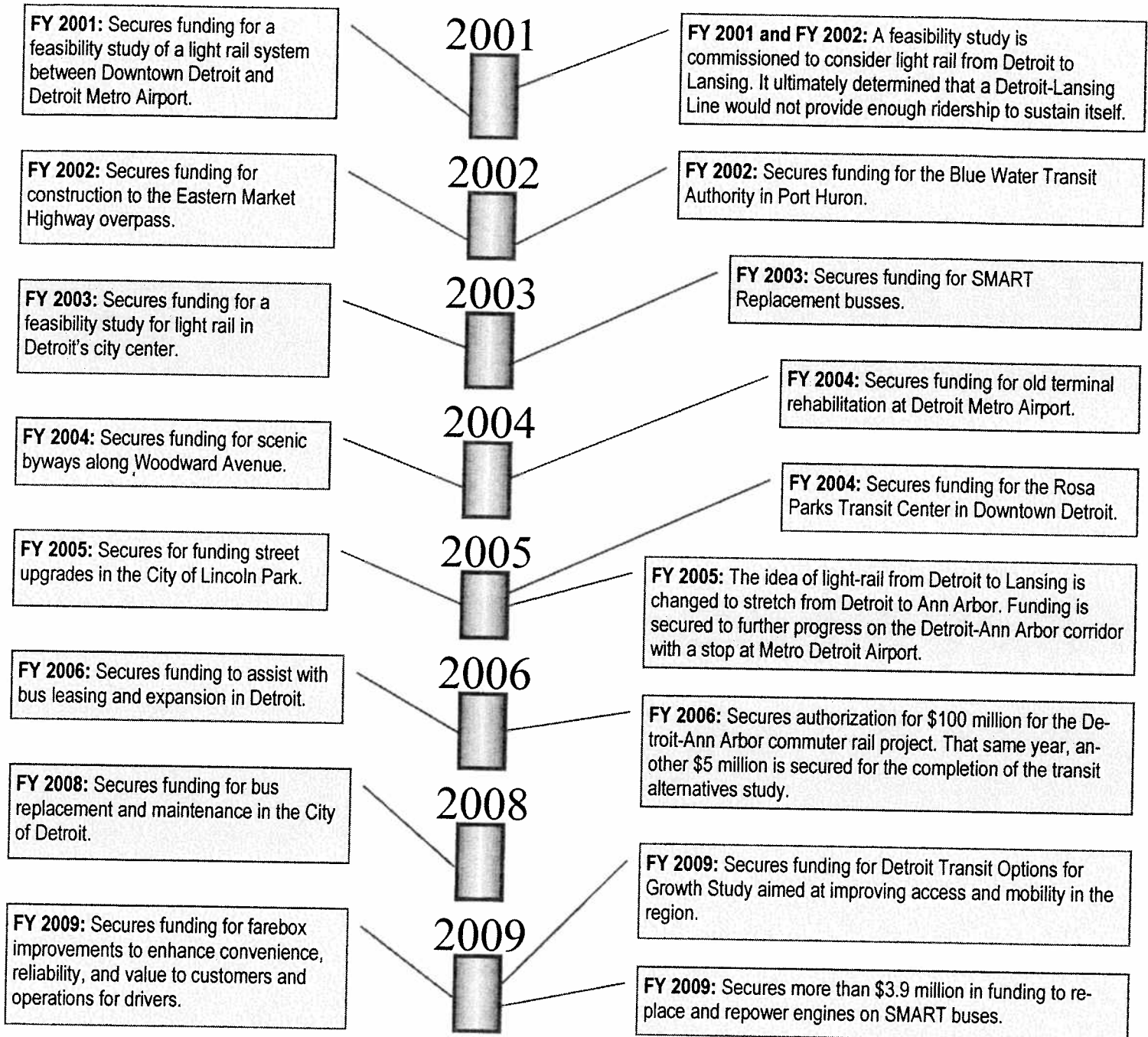
The bill will soon be voted on in both the U.S. House of Representatives and the U.S. Senate. The measure is expected to pass the House and Senate and be quickly signed into law by President Barack Obama.

Congresswoman Kilpatrick added, "I thank my colleagues in the Michigan Congressional delegation, Conferee Chairman John Oliver and Chairwoman Patty Murray, officials in the Mayor's Office of the City of Detroit, the Governor's office, and the U.S. Department of Transportation for their support and invaluable assistance in making this a reality for all Michiganders."



# A Timeline:

## *Congresswoman Kilpatrick's Achievements in Mass Transit*



### Contact Congresswoman Carolyn Cheeks Kilpatrick

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FOR IMMEDIATE RELEASE  
December 11, 2009

Contact: Senator Levin's Office  
Phone: 202.224.6221

## **Levin-Authored Legislation for Woodward Avenue Light Rail Project Moves Forward**

*Major Hurdle to Bring Light Rail to Detroit Could Be Cleared in Days*

WASHINGTON — Legislation allowing the expanded use of private funds for construction of the Woodward Avenue light rail project in Detroit authored by U.S. Sen. Carl Levin, D-Mich., is included in the FY 2010 Transportation, Housing and Urban Development Appropriations bill. The legislation, passed by the House of Representatives yesterday and being considered by the Senate this weekend, will significantly advance the light rail project.

"Detroit has struggled for decades to build a rapid transit line along the Woodward Avenue corridor. Given the current economic slump it would be a huge boost if this project could qualify for the New Starts Program," Levin said. "I'm gratified the conference committee chose to accept my provision that requires the Federal Transit Administration to consider private funds as the local match when considering the Woodward light rail project. I will do all I can to see this project through to its construction."

The language provides that the Federal Transit Administration shall consider private funds for the project when considering it for participation in the U.S. Department of Transportation's New Starts program, a key financial resource for locally-planned and implemented transit projects.

M-1 RAIL, a nonprofit public/private partnership, is using privately raised funds to build light rail along Woodward Avenue from Hart Plaza to the New Center. The city of Detroit is in the process of applying for federal funds from the New Starts program to create the second phase of the light rail-line, from New Center to 8 Mile Road, creating a seamless transit line from Hart Plaza down Woodward Avenue to 8 Mile Road.

The Levin language will allow the private funds that will be spent to build the M-1 RAIL portion of the Woodward Avenue Corridor to be counted as the local match requirement for the publicly funded section of the Woodward Avenue corridor. It is an important step in allowing the estimated \$120 million in private funds to be used as the local match to build the second phase of the line. Without it, the project could not move forward.

The rapid transit line going up Woodward Avenue would create an eight mile corridor of great economic importance to the city and state. In addition to the private funds going into

the first phase of the light rail line, the project has a significant local financial commitment. The city of Detroit has set aside \$64.45 million and the state of Michigan has set aside \$16.3 million for the local match which signifies the importance of this project.

The Senate version of the Transportation, Housing and Urban Development Appropriations Bill included Levin's Section 166. The conference committee between the Senate and House of Representatives kept a modified version of the language in its final report. The relevant language from both bills follows:

Senate bill language: SEC. 166. Hereafter, the local share of the costs of the Woodward Avenue Corridor projects funded under section 5309 shall include, at the option of the project sponsor, any portion of the corridor advanced with 100 percent non-Federal funds.

Conference report language: SEC. 168. In determining the local share of the cost of the project authorized to be carried out under section 3043(c) (70) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59; 119 Stat. 1644) for purposes of the rating process for New Starts projects, the Secretary shall consider any portion of the corridor advanced entirely with non-Federal funds.

Conference report explanatory statement: "Section 168 modifies a provision proposed by the Senate which requires FTA to consider the portion of the Woodward Avenue Corridor that is advanced with 100 percent non-Federal funds during the New Starts rating process. The conferees understand that the first phase of the Woodward Avenue Corridor project will meet all of the existing federal requirements including environmental reviews, prevailing wage, disadvantage business enterprise and Buy American."

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Release Date: February 17, 2010

Last Update: February 17, 2010

**Contact:** Bill Shreck, Director of Communications, 517-335-3084  
**Agency:** Transportation

## **MDOT announces \$55 million in TIGER grants awarded for Woodward Avenue light rail and Port Huron bridge**

February 17, 2010 -- State Transportation Director Kirk T. Steudle today announced that Michigan is the recipient of \$55 million in two federal grants from the U.S. Department of Transportation (US DOT). The Michigan projects were awarded funding under a \$1.5 billion nationwide discretionary competitive grant program called "TIGER," or Transportation Investment Generating Economic Recovery. U.S. Secretary of Transportation Ray LaHood announced the TIGER grant awards today (more details are available at [www.dot.gov/affairs/2010/dot3010a.htm](http://www.dot.gov/affairs/2010/dot3010a.htm)).

**Proposed light rail service along M-1 (Woodward Avenue) in Detroit will receive a \$25 million boost.** The project will help transform transportation in Michigan's largest urban area with a proposed 3.4-mile light rail system connecting downtown Detroit to the New Center district along the region's main traffic artery, Woodward Avenue. The TIGER-funded portion of the project will help complete needed roadway reconstruction, community enhancements in conjunction with the construction of the rail line and vehicle acquisition. Twelve stations are planned along the route. The next stage of the project is to obtain environmental clearance and complete design work.

The I-94 Black River Bridge replacement in Port Huron will receive \$30 million. This project is the first phase of the Blue Water Bridge plaza expansion, a project to modernize and improve capacity at the nation's second-busiest U.S.-Canadian truck border crossing, and the fourth-busiest traffic crossing between the U.S. and Canada. Annually, over \$38 billion in goods cross the Blue Water Bridge and the adjacent I-94/I-69 freeway corridor by truck. The project will completely reconstruct the existing Black River Bridge and add a non motorized path across the river that will connect Port Huron Township with the city of Port Huron.

"The funding announced today by the US DOT is a great shot in the arm for the Black River bridge project," said Steudle. "This is an important part of the Blue Water Bridge plaza overhaul and the first step to getting this major gateway modernized. The project will improve local mobility and safety across the Black River Bridge by separating local Port Huron traffic from international traffic, and will create job opportunities associated with construction on the first phase of the Blue Water Bridge plaza project."

"We're also very pleased that the Woodward Avenue light rail project has received a TIGER grant, which will help leverage \$120 million in local and private money investments. The first phase of the project from the Detroit River to New Center looks promising. We look forward to working with our public and private sector partners to advance this project," said Steudle.

Feb. 17 marks the one-year anniversary of the American Recovery and Reinvestment Act (ARRA), also known as the Recovery Act, of which TIGER funds are a part. Recovery Act funding put \$48 billion to work nationwide to save or create jobs, rebuild highway and bridges, improve and restore transit systems and put rail projects on a new track. In Michigan, the Michigan Department of Transportation was able to get 331 highway projects and 57 transit project under way in 2009, representing \$912 million in Recovery funds.

MDOT says: Remember - in Ice and Snow, Take it Slow!

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# ATTACHMENT C

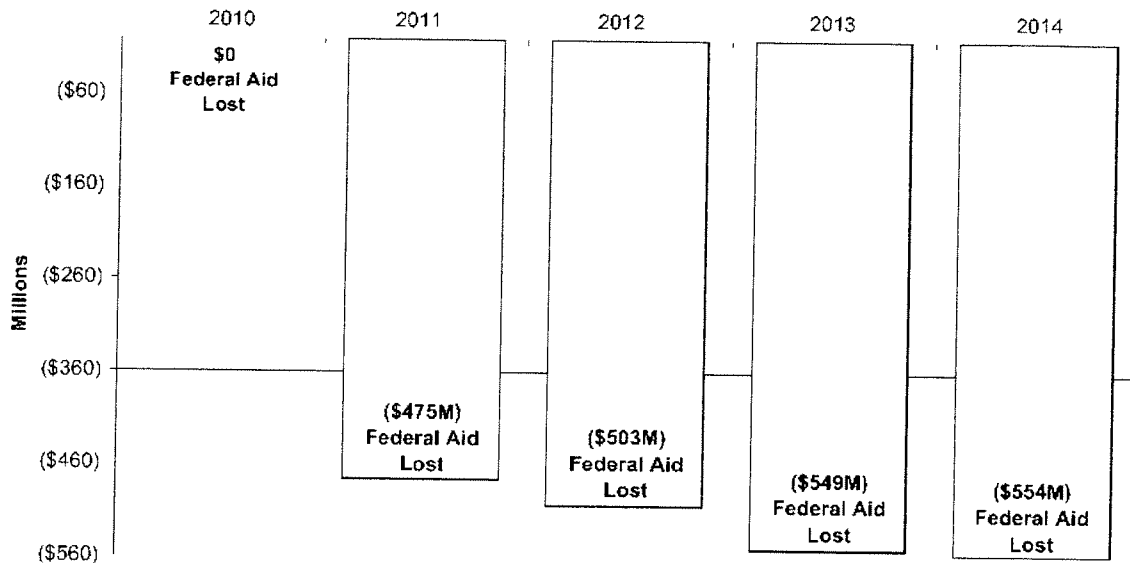




## Department of Transportation

Despite declining state restricted revenues and an inability to match all available federal aid, the Department of Transportation (MDOT) continues to make investments in the State's network of roads and bridges, public transportation systems, freight development, and aviation programs to the extent existing revenues allow. *The Governor's proposed budget for fiscal year 2011 recommends total funding of \$2.7 billion, supported entirely with federal and state restricted revenues.*

**Significant Federal Aid Losses Looming Due to Insufficient State Transportation Revenues**



*The potential loss of federal aid over the next four years is \$2.1 billion without additional state restricted revenues to provide the required match.*

### Highlights of Governor's Budget Recommendation for MDOT

- Governor Granholm remains supportive of the Transportation Funding Task Force and its recommendations for long-term financing alternatives. However, **lack of legislative action on the Task Force proposals will significantly affect the transportation budget for fiscal year 2011.**
- The department is reducing operational expenses by \$20 million in order to redirect those funds to road construction, thus earning \$100 million in federal funds that they would otherwise not be able to match. **However, even with this action, Michigan will be unable to match \$475 million in available federal aid due to inadequate state transportation revenues.**
- This budget recommendation supports \$1.9 billion for state and local road and bridge construction and maintenance projects; \$295 million for public transportation, rail freight, and marine programs; as well as \$1 million for the planned light railway project on Woodward Avenue in Detroit.



## Executive Summary

The Transportation Funding Task Force was created in response to Public Act 221 of 2007 (P.A. 221 or Act 221), legislation which passed both the Michigan Senate and House of Representatives with a bipartisan majority and was signed into law by Governor Jennifer Granholm in December 2007.

The Task Force is comprised of 13 members. Nine represent interests including manufacturing, labor, transportation, agriculture, aviation, commerce, public transit, tourism, and the general public. Four members of the Legislature also serve on the Task Force, representing each legislative body and each side of the political aisle.

The purpose of the Task Force, as defined by P.A. 221, is to “review the adequacy of surface transportation and aeronautics service provision and finance” in Michigan, review strategies for maximizing return on transportation investment, and evaluate the potential of alternative strategies to replace or supplement transportation taxes and fees. A major and consistent focus of the group has been the need to stimulate economic activity and enhance personal mobility.

As they began their work seven months ago, the members of the Task Force very quickly realized the enormity and importance of the task that had been appointed to them.

### Hard Truths

What the Task Force ultimately determined, after months of hard work and much public input, is that if Michigan’s transportation system is to continue to serve the state adequately, our investment in transportation must increase significantly.

Road-user fees for a typical Michigan auto driver come to just pennies over \$1 per day. The typical auto driver pays 2½ cents per each mile driven; a typical semi-truck driver, 8 1/3 cents. Michigan’s Airport system has been sustained over the years with a fuel tax established in 1929, a rate sustainable because of aviation’s popularity and growth. Transit investment in Michigan is half to one-tenth the investment made by other populated, economically diverse states like New York, New Jersey, Maryland, Illinois, Massachusetts, California, even Minnesota and Delaware. We pay relatively little for a transportation system that provides priceless access to global opportunity.

Compounding this historic underinvestment are factors beyond our control. Michigan is approaching a crisis of infrastructure funding caused by steady erosion of purchasing power, continued inflation in materials costs, and a decline in fuel-tax revenues due to spikes in gas prices, reduced travel and a slow economy. The decline in revenues, and a corresponding increase in demand for travel alternatives, has exposed the inherent structural problems with the current means of transportation finance.

For the past several years, the transportation revenue stream has been enhanced with bond revenues to provide a more robust level of investment. As a result, Michigan has made progress, particularly in improving the condition of the most highly used highways and bridges. But that bonding cannot continue without additional revenue.

As a result, Michigan is moving from underinvesting in transportation, to disinvesting in transportation.

That is the hard truth the Transportation Funding Task Force had to face. The group asked the Citizens Advisory Committee (CAC), also created by Act 221, to identify and quantify Michigan’s

transportation needs, based on “do nothing,” “good,” and “better” investment scenarios. The Task Force reviewed their methodology, and asked them to propose efficiencies and reforms that could help stretch taxpayer dollars and maximize the benefit of existing investment.

Based on the information at their disposal, the Task Force could reach only one conclusion. More investment in transportation is absolutely needed. Much more.

### **Greater Efficiency**

Properly chosen transportation investments can be phenomenally productive, but only if every dollar is used efficiently. With the assistance of the CAC, the Task Force learned that transportation agencies have been relentlessly vigilant in stretching shrinking revenue. Their efforts may go unnoticed, because cost-cutting measures are designed not to disrupt service or impose on customers. While the Task Force was able to recommend some additional efficiencies that are beyond the ability of any one transportation agency to implement, it is clear that efficiency is standard operating procedure at agencies across the state.

First among the efficiencies already achieved is Michigan’s nationally-recognized focus on asset management, involving every road agency in the state. On a smaller scale, many transportation agencies work cooperatively with each other or the private sector to economize and avoid duplication. Savings range from grand improvements – like the technologically advanced region-wide snow and ice removal program in Southeast Michigan, the nation’s first LEED certified, energy efficient transit center in Grand Rapids, or the recently completed 80,000 square foot hangar at Oscoda-Wurtsmith Airport which can fully house a Boeing 747-8 for maintenance operations during inclement weather and created 200 new jobs – to simple adjustments like multipurpose trucks or cooperative purchasing consortiums. But increasingly, transportation agencies must let some opportunities to save go undone, as cash is not available to make small improvements, however productive.

### **No Federal Bailouts**

Given the current state of the national economy, it is unlikely the federal government will come to Michigan’s transportation rescue. Even if they did, Michigan is not in a position to take advantage of new federal funding. *This is the last year Michigan will have enough state and local matching funds to claim all federal transportation funding available to the state.*

Some local agencies are already unable to make use of all federal transportation funding. By 2010, this will be true across all modes and across all jurisdictions.

We must increase investment in transportation soon or we will put past investment at risk, and the infrastructure and transportation service on which we rely will deteriorate.

### **Abundant Choices**

The good news is that there is a way out of the transportation investment crisis.

In fact, there are many ways out. We have room to choose among many alternatives to pay for a basic “good” transportation system, but it is the consensus of the Task Force that in order to compete in a global economy as a state we need to continue to strive for “better” over time.

Although the level of investment needed for “good” and “better” are significant, they are not out of line with transportation investment needs nationally. The National Surface Transportation Policy and Revenue Study Committee, after two years of research and public comment, recommended that investment in transportation by all levels of government should be at least

\$225 billion per year, an increase of 161 percent compared to national capital investment today of \$86 billion.

**In Michigan, we need to at least double our current investment in transportation.**

Despite the magnitude of the funding gap, it can be closed. Not all the revenue need come from state coffers; the federal government, local government, and even the private sector should be partners in this effort. But one or two incremental fee increases will not be enough; it will require multiple – possibly dramatic – changes to the user-fee structure. Most of the revenue alternatives and efficiencies described in this report will likely be needed if we are to accomplish our goal.

**The one choice we cannot afford is to do nothing.**

The consequences to Michigan if action is not taken to address the need for increased transportation investment are dire indeed. Michigan stands to lose up to \$1 billion in federal funds each year, because transportation agencies will not have enough revenue to provide the required matching funds. They will not be able to sustain the current level of investment, putting more than 17,000 jobs at risk. The condition of our infrastructure will deteriorate, with 30 percent of Michigan roads predicted to decline into poor or fair condition during the next decade. The condition of airport pavements will also decline, with the average airport pavement needing rehabilitation as soon as 2012, and crucial aviation safety programs will need to be terminated or reduced in scope. Existing local transit services and intercity passenger rail services will be reduced, and intercity bus service to rural areas will likely be eliminated.

### **Real Opportunities**

Restoring our investment in transportation has the potential to accomplish valuable and much needed changes. The “good” level of investment will sustain 126,000 Michigan jobs, attract new business, open new global markets for Michigan products and services. It will yield roughly \$41 billion in other economic benefits for all sectors of the Michigan economy.

For highways, roads and bridges, “good” investment will ensure that the most frequently used roads and bridges remain largely in good condition. It will allow local road agencies to do more than just plow snow and patch potholes, and will preserve local roads in the same condition they are today. It will reduce congestion with road widenings and construction of the highest-priority capacity improvements, and improve safety.

For passenger transportation, a “good” investment level will allow transit agencies to begin replacing aging buses with greener, more fuel-efficient vehicles. It will enhance convenience and choice in passenger transportation and allow implementation of long-overdue travel alternatives, such as commuter rail and light rail in Southeast Michigan and bus rapid transit in Grand Rapids. It will provide urban travel options that make Michigan cities more attractive to business and residents.

For freight transportation, “good” investment will reduce the travel time and increase the reliability of freight shipments on the ground and in the air. It will save lives by improving railroad-highway grade crossing safety.

For aviation, a “good” investment level will create an Aviation Economic Development Fund for aviation improvements needed to attract jobs. It will reinstate currently curtailed programs that are important to safety and that can provide new economic opportunities.

Good transportation will return benefits directly to households and businesses. It is estimated that congestion, poor pavement condition and crashes cost Michigan drivers and truckers \$7 billion

annually in wasted fuel, lost time, vehicle maintenance costs, medical costs, lost productivity, and property damage. Based on economic analysis conducted by the University of Michigan, the Task Force estimates that investment at the “good” level would provide an average Michigan household an additional \$2,000 per year in increased personal income and savings through reduced travel time and vehicle maintenance, and increased safety.

The “Better” investment level would accomplish even more. It would allow for infrastructure and transportation service improvements that would push Michigan into the forefront of economic competitiveness within our region and throughout the Nation. It would sustain more than 240,000 jobs, leverage an expected \$1.9 billion in federal funds, and provide more than \$84 billion in other economic benefits. The “better” level of investment is something to continue to strive for in the future.

### **Working in the Snow**

The people of Michigan have been “working in the rain” for several years now, struggling with a sluggish state economy. To continue that analogy, the weather nationally has taken on a sharp and sudden chill. It seems inevitable that the rain will turn to snow. Perhaps severe snow.

But one of the many things the people of Michigan excel at is digging out from under a big snow. Everyone bundles up and pitches in. They bring whatever tools they have available. They all contribute, and make their best, most responsible effort to clear the way.

This report proposes making significant new investment in transportation. It is an investment that will create jobs and economic opportunity, attract business, improve property values, increase revenue, help the environment and ultimately save taxpayer dollars. It is an investment very worth making. In light of the storm that is upon us, it is an investment we cannot afford to forego.

This investment will require a contribution from everyone. It will require all the tools we have available, and some new ones that have yet to be crafted.

But if everyone contributes, if we work together to give our best, be our most responsible, we can make it happen. This significant investment in transportation can help Michigan dig out. We can set an example for the rest of the nation, show them how it’s done, and reclaim our place as a national economic leader once again.

**Figure A: Summary of Transportation Investment Scenarios**

Investment Scenario	Aviation	Highway, Road & Bridge <sup>1</sup>	Intermodal Passenger	Intermodal Freight	Total Across Modes
<b>Do Nothing</b>	<b>\$121M</b>	<b>\$1,900M</b>	<b>\$241M</b>	<b>\$14M</b>	<b>\$2,276M</b>
State & Local Funds	\$16M	\$1,653M	\$193M	\$7M <sup>2</sup>	\$1,869M
Federal Funds Leveraged (avg per year)	\$105M	\$247M	\$48M	\$7M	\$407M
Federal Funds at Risk (avg per year)	(\$16M)	(\$954M) <sup>3</sup>	(\$112M)	(\$0)	(\$1,082M)
Jobs Lost <sup>4</sup>	(416)	(13,532)	(3,516)	(N/A) <sup>5</sup>	(17,464)
<b>Good</b>	<b>\$242 M</b>	<b>\$6,136M</b>	<b>\$773M</b>	<b>\$19M</b>	<b>\$7,170M</b>
State & Local Funds	\$79M	\$4,935M	\$508M	\$12M	\$5,534M
Federal Funds Leveraged (avg per year)	\$163M*	\$1,201M	\$265M*	\$7M	\$1,636M
Jobs Supported	3,800	87,000	35,100	250	126,150
Other Benefits	Not Available	\$37,000M	\$4,369M	\$31M	\$41,400M
<b>Better</b>	<b>\$327M</b>	<b>\$12,696M</b>	<b>\$1,336M</b>	<b>\$41M</b>	<b>\$14,400M</b>
State & Local Funds	\$130M	\$11,495M	\$779M	\$34M	\$12,438M
Federal Funds Leveraged (avg per year)	\$197M*	\$1,201M	\$557M*	\$7M	\$1,962M
Jobs Supported	5,200	179,000	59,000	600	243,800
Other Benefits	Not available	\$76,200M	\$7,449M	Not available	\$83,649M

<sup>1</sup> Current investment among road agencies is \$3.2 Billion (FY 08), putting the current total across modes at \$3.576 Billion. Doing nothing will result in a decrease in funds available for investment in highways, roads and bridges.

<sup>2</sup> This amount only reflects rail investment. Trucking and air cargo are in their respective columns. No other freight funds were identified.

<sup>3</sup> Estimates of federal aid are subject to change based on decisions made by the federal government.

<sup>4</sup> Aviation - One job is estimated to be supported for every \$60,000 spent. This figure includes direct and indirect jobs from construction expenditures, but does not reflect additional jobs created by increased passenger or cargo traffic as a result (Adapted from economic benefits studies of Detroit Metro and Willow Run Airports). Highway, Road, and Bridge - One job is estimated to be supported for every \$70,500 spent. (Adapted from U of M's Economic Benefits of MDOT's 2007-2011 Highway Program). Intermodal Passenger - One job is estimated to be supported for every \$32,000 invested in capital for transit. (Adapted from Cambridge Systematics Study, E-1). Intermodal Freight - With no federal funds at risk, there will be no job loss.

<sup>5</sup> The investment scenarios for intermodal freight were not included. Only rail investments were identified by the CAC Intermodal Subcommittee. Air and truck-cargo investment needs were included with their respective infrastructure, and no specific marine cargo investments were identified. Rail infrastructure supports over 4,000 jobs in the state, however, there was not a comparable calculation identified to accurately identify "jobs supported" by the investment scenarios as was done for other modes.

\* Federal funds leveraged includes possible competitive federal grants that could be available.

**Figure B: Summary of Funding Alternatives (in order of time horizon)**

Key: ● = High  
 ● = Medium  
 ● = Low

**Guiding Principles**

<b>Statewide Revenue Options</b>	Workable short run	Sustainable long run	Participation at all levels	Relationship of payers/benefits received	Adaptation to changing conditions	Retention for transportation purposes	Sufficient to leverage other funds
Increase vehicle registration rates	●	●	●	●	●	●	●
Eliminate registration discounts	●	●	●	●	●	●	●
Adjust motor fuel tax	●	●	●	●	●	●	●
Equalize diesel & gasoline fuel tax rates	●	●	●	●	●	●	●
Abolish 1.5% "cost of collection" allowance	●	●	●	●	●	●	●
Reduce Inter-Departmental Grants	●	●	●	●	●	●	●
Increase sales tax and dedicate increase to transportation funding	●	●	●	●	●	●	●
Direct all or a portion of sales tax on fuels to the MTF	●	●	●	●	●	●	●
Direct some (or all) of Natural Resources Trust Fund Revenue to roads	●	●	●	●	●	●	●
<b>Aviation Options</b>							
Increase aviation fuel tax	●	●	●	●	●	●	●
Increase aircraft registration fee	●	●	●	●	●	●	●
Abolish commercial airline refund	●	●	●	●	●	●	●
Urge increase in aviation block grant	●	●	●	●	●	●	●
Redirect sales tax on aviation products or make a specific allocation to aviation from unallocated sales tax revenue	●	●	●	●	●	●	●
Change aviation fuel tax to % of price	●	●	●	●	●	●	●
Work with Congress to make federal and state relief programs eligible for same federal funding as primary airports	●	●	●	●	●	●	●
<b>Local Funding Options</b>							
Encourage local transportation investment by enabling a broad spectrum of local revenue options	●	●	●	●	●	●	●
<b>Public-Private Partnerships (P3s) &amp; Tolling</b>							
Enable P3s for toll-financed reconstruction, expansion or new construction of freeways.	●	●	●	●	●	●	●
Enable toll-financed reconstruction, expansion or new construction of freeways.	●	●	●	●	●	●	●



# ATTACHMENT D



**METROPOLITAN TRANSPORTATION AUTHORITIES ACT OF 1967 (EXCERPT)**  
Act 204 of 1967

**124.404a Regional transit coordinating council; formation; purpose; collective representation of Livingston, Monroe, St. Clair, and Washtenaw counties; council as authority; receipt of transportation operating and capital assistance grants; powers and duties of council; articles of incorporation; council as "designated recipient" of federal and state transportation funds; designation of subrecipient; supplemental agreement; application for grant funds; distribution; actions and meetings of council; conducting business at public meeting; notice; establishment and report of advisory committee; financial audit as condition to distribution of state and federal funds.**

Sec. 4a. (1) The chief executive officer of each city having a population of 750,000 or more within a metropolitan area, of each county in which such a city is located, and of all other counties immediately contiguous to such a city shall form a corporation, subject to the limitations of this act, to be known as the regional transit coordinating council for the purpose of establishing and directing public transportation policy within a metropolitan area. The counties of Livingston, Monroe, St. Clair, and Washtenaw shall be collectively represented on the council by 1 member, without vote, from 1 of the counties and shall determine their representative member on the council in a manner to be determined by the counties. The county from which the representative member is to be selected shall rotate among the counties at least every 2 years and the member shall be a resident of the county from which the member is to be selected. If 1 or more of the counties of Livingston, Monroe, St. Clair, and Washtenaw withdraw from the authority, the member shall rotate between, and be selected from, the remaining counties.

(2) A council formed under this section shall be considered an authority organized pursuant to this act for the sole purpose of receiving transportation operating and capital assistance grants. A council may not exercise any rights, duties, or powers provided to an authority organized pursuant to this act except as is necessary to receive transportation operating and capital assistance grants.

(3) The council may adopt public transportation plans for its metropolitan area. The council shall coordinate service overlap, rates, routing, scheduling, and like functions between operators of public transportation. The council shall not have power to employ operating personnel, negotiate collective bargaining agreements with operating personnel, or own operating assets of a public transportation service within the metropolitan area.

(4) The articles of incorporation forming the council shall provide for the conduct of the affairs of the council, including provision for the appointment of a general secretary to the council and the allocation between the city and any authority representing the counties of any grants applied for by the council.

(5) The council shall be a "designated recipient" for purposes of the former federal urban mass transportation act of 1964, Public Law 88-365, and the regulations promulgated under that act, to apply for federal and state transportation operating and capital assistance grants, but the council may designate a city with a population of more than 750,000 and the authority representing the counties each as a subrecipient of federal and state transportation funds. To the extent required by the federal urban mass transportation act of 1964 and the regulations thereunder, the council and a city with a population over 750,000 and the authority representing the counties shall execute a supplemental agreement conferring on a city with a population over 750,000 and the authority representing the counties the right to receive and dispense grant funds and containing such other provisions as are required by federal law and regulation. The general secretary shall submit in a timely manner the council's application for such funds to the responsible federal and state agencies. The application shall designate the distribution of all capital and operating funds which shall be paid directly to a city with a population over 750,000 and the authority representing the counties. If the council is the recipient, the general secretary, as soon as possible, but not more than 10 business days after receipt of the funds by the general secretary, shall remit to a city with a population over 750,000 and the authority representing the counties their designated distribution of the funds.

(6) **The council shall act by a unanimous vote of its membership entitled to vote and shall meet regularly** but not less than quarterly. A council member shall not designate another representative to serve in his or her place on the council.

(7) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(8) An advisory committee comprised of riders who are senior citizens or persons with disabilities, or both,

and who live within the southeastern Michigan transportation authority shall be established and shall report their concerns to the council on a regularly scheduled basis.

(9) Before any state or federal funds are distributed to any of the eligible authorities or eligible governmental agencies coordinated by the council, a financial audit of the transit operations for the fiscal year immediately previous to the most recently completed fiscal year shall be provided to the state transportation department in accordance with section 10h(2) of 1951 PA 51, MCL 247.660h. The state transportation department may waive this requirement on a temporary basis. Each audit shall be in accordance with sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. Each financial audit shall also be in accordance with generally accepted accounting standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

**History:** Add. 1988, Act 481, Imd. Eff. Dec. 28, 1988;—Am. 1998, Act 75, Imd. Eff. May 4, 1998.

**REGIONAL CONVENTION FACILITY AUTHORITY ACT (EXCERPT)**

Act 554 of 2008

**141.1361 Board; meeting; election of chairperson and officers; actions requiring unanimous consent; business conducted at public meeting; availability of records and documents to public; system of accounts; annual audit; budget; contracts; use of competitive procurement methods; exceptions; purchases; preferences; procedures to monitor performance of contracts; procurement policy; employment of personnel; certain actions prohibited; citizens advisory council.**

Sec. 11. (1) Within not more than 30 days following appointment of the members of a board, the board shall hold its first meeting at a date and time determined by the individual appointed under section 9(1)(a). The board members shall elect from among the board members an individual to serve as chairperson of the board and may elect other officers as the board considers necessary. All officers shall be elected annually by the board. All actions of the board under this act shall require the unanimous consent of all serving members of the board, excluding any members prohibited from voting on an action due to a conflict of interest under section 15.

(2) The business of the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the board may be called by the chairperson of the board or as provided in bylaws adopted by the board. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A board shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) A board shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of an authority. The board shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(5) Before the beginning of each fiscal year, a board shall cause to be prepared a budget for the authority containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of convention facilities under the jurisdiction of the board, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the next fiscal year or that have previously matured and are unpaid, and an estimate of the estimated revenue of the authority from all sources for the next fiscal year. The board shall adopt a budget as for the fiscal year in accordance with the uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(6) A board shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority. The board shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of authority contracts. A board shall provide for the acquisition of professional services, including, but not limited to, architectural services, engineering services, surveying services, accounting services, services related to the issuance of bonds, and legal services, in accordance with a competitive, qualifications-based selection process and procedure for the type of professional service required by the authority. An authority is not required to use competitive bidding when acquiring proprietary services, equipment, or information available from a single source, such as a software license agreement. An authority may enter into a cooperative purchasing agreement with the federal government, this state, or other public entities for the purchase of goods or services necessary for the authority. An authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law. In all purchases made by the

authority, all other things being equal, preference shall be given first to products manufactured or services offered by firms based in the authority's qualified metropolitan area, including, but not limited to, the qualified city and each county in the qualified metropolitan area, and next to firms based in this state, if consistent with applicable law. The authority shall actively solicit lists of potential bidders for authority contracts from each qualified city and each county in the qualified metropolitan area. Except as otherwise provided in this section, the authority shall utilize competitive solicitation for all purchases authorized under this act unless 1 or more of the following apply:

(a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the authority or its chief executive officer.

(b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

(c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

(e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.

(f) Procurement of goods or services is under a cooperative purchasing agreement with the federal government, this state, or more public entities for the purchase of goods and services necessary at fair and reasonable prices using a competitive procurement method for authority operations.

(g) The value of the procurement is less than \$5,000.00, and the board has established policies or procedures to ensure that goods or services with a value of less than \$5,000.00 are purchased by the board at fair and reasonable prices. Procurement of goods or services with a value of less than \$5,000.00 may be negotiated with or without using competitive bidding as authorized in a procurement policy adopted by the board.

(7) A board may not enter into any cost plus construction contract unless all of the following apply:

(a) The contract cost is less than \$50,000.00.

(b) The contract is for emergency repair or construction caused by unforeseen circumstances.

(c) The repair or construction is necessary to protect life or property.

(d) The contract complies with requirements of applicable state or federal law.

(8) The board shall adopt a procurement policy consistent with the requirements of this act and federal and state laws relating to procurement. The procurement policy shall include a requirement for the authority to use its best efforts within the competitive solicitation requirements of this section to achieve fairness in the number and value of contracts for goods or services entered into by the authority with firms based in the qualified city and each county within the qualified metropolitan area, consistent with applicable law. The board shall adopt a policy to govern the control, supervision, management, and oversight of each contract to which the authority is a party. The board shall adopt procedures to monitor the performance of each contract including, but not limited to, a contract that exists on the transfer date, to assure execution of the contract within the budget and time periods provided under the contract. The monitoring shall include oversight as to whether the contract is being performed in compliance with the terms of the contract, this act, and federal and state law procurement law. The chief executive officer or other authorized employee of an authority shall not sign or execute a contract until the contract is approved by the board. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in this state. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or violation of state or federal antitrust statutes, or similar laws. The authority shall prepare an annual report to the board, the qualified city, and each county within the qualified metropolitan area detailing all contracts entered into by the authority during the immediately preceding fiscal year. As used in this subsection, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(9) A board may employ personnel as the board considers necessary to assist the board in performing the power, duties, and jurisdictions of the authority, including, but not limited to, employment of a chief

executive officer as authorized under section 13. The board shall adopt an employment policy that includes a requirement for the authority to use best efforts to achieve fairness in the hiring of employees from among residents of the qualified city and each county within the qualified metropolitan area, consistent with applicable law. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(10) A board shall establish policies to assure that the board and the authority shall not do either of the following:

(a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, or a contract with the authority because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job, position, or contract.

(b) Limit, segregate, or classify an employee, a contractor, or applicant for employment or a contract in a way that deprives or tends to deprive the employee, contractor, or applicant of an employment opportunity or otherwise adversely affects the status of an employee, contractor, or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.

(11) Not less than 60 days after the transfer date, an authority shall establish a citizens advisory council to provide public input and advise the board on the impact of redevelopment and management of a qualified convention facility upon the qualified city and each county within the qualified metropolitan area. The advisory council shall consist of 8 members, including 1 resident of the qualified city appointed by the local chief executive officer of the qualified city, 1 resident of the qualified city appointed by the legislative body of the qualified city, 1 county resident appointed as a council member by each local chief executive officer for each county within the qualified metropolitan area, and 1 county resident appointed as a council member by the legislative body for each county within the qualified metropolitan area. An elected state or local official is not eligible to serve as a member of the citizens advisory council. Members of the advisory council shall be appointed for terms of 4 years. A vacancy on the advisory council arising other than by expiration of a term shall be filled for the remainder of a term in the same manner as the original appointment. The business of the advisory council shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The advisory council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the advisory council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The advisory council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the advisory council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An advisory council shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with this act governing its operations. The advisory council may request and shall receive from the authority information and technical assistance relating to the development and management of the qualified convention facility. Failure of the advisory council to organize, meet, or perform statutory functions shall not prevent the board or the authority from performing authorized activities. A member of the citizens advisory council shall not be compensated for being a member nor shall a member be reimbursed for any expenses incurred as a member of the citizens advisory council.

**History:** 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.





# HOUSE BILL No. 5731

December 18, 2009, Introduced by Reps. Johnson, Switalski and Donigan and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to create a regional transit authority; to provide regional transportation; to prescribe certain powers and duties of the authority and of certain state agencies and officials; to authorize the levy of taxes and to provide for the issuance of bonds and notes; and to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "regional transit authority act".

3       Sec. 2. As used in this act:

4       (a) "Authority" means a regional transit authority formed  
5 under this act.

6       (b) "Board" means the governing body of an authority.



1 contest to, or forfeited bail concerning a felony under the laws of  
2 this state, any other state, or the United States shall not be  
3 appointed or remain as a member of the board.

4 (12) Board members appointed under this section shall possess  
5 business, financial, or professional experience relevant to the  
6 operation of public transit systems.

7 Sec. 6. (1) Within not more than 30 days following the  
8 appointment of the members of the board, the board shall hold its  
9 first meeting at a date and time determined by the governor's  
10 representative. The board members shall elect from among the board  
11 members an individual to serve as chairperson of the board and may  
12 elect other officers as the board considers necessary. All officers  
13 shall be elected annually by the board.

14 (2) The business of the board shall be conducted at a public  
15 meeting of the board held in compliance with the open meetings act,  
16 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,  
17 and place of the meeting shall be given in the manner required by  
18 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board  
19 shall adopt bylaws consistent with the open meetings act, 1976 PA  
20 267, MCL 15.261 to 15.275, governing its procedures and the holding  
21 of meetings. After organization, a board shall adopt a schedule of  
22 regular meetings and adopt a regular meeting date, place, and time.  
23 The board shall meet not less than quarterly. A special meeting of  
24 the board may be called by the chairperson of the board or as  
25 provided in bylaws adopted by the board.

26 (3) All actions of the board under this act shall be by simple  
27 majority vote of all serving members of the board; provided that



# ATTACHMENT E



# **CHARTER OF THE CITY OF DETROIT**

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## **HOME RULE CITIES**

**The power to adopt this Charter was conferred by  
Act 279, Public Acts 1909 (now Chapter 49, of the  
Compiled Laws of the State of Michigan, 1929, and  
Chapter 49 of Michigan Statutes Annotated)**

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**Adopted by Vote of the People of the City of Detroit**

**People on August 6, 1996**

**Filed with the Secretary of State**

**August 27, 1996**

**EFFECTIVE JANUARY 1, 1997**

**DATE OF PUBLICATION JUNE 22, 1998**





# HOME RULE CHARTER

## Part II

### PREAMBLE AND DECLARATION OF RIGHTS

#### PREAMBLE

We, the people of Detroit, do ordain and establish this Charter for the governance of our city, as it addresses the programs, services and needs of our citizens; fostering an environment and structure whereby public policy objectives and decisions reflect citizen participation and desires; pledging that all our officials, elected and appointed, will be held accountable to fulfill the intent of this Charter; acknowledging our blessings from God, we pray our efforts will be accepted.

#### DECLARATION OF RIGHTS

1. Detroit city government is a service institution that recognizes its subordination to the people of Detroit.  
  
The city shall provide for the public peace, health and safety of persons and property within its jurisdictional limits.  
  
The people have a right to expect aggressive action by the city's officers in seeking to advance, conserve, maintain and protect the integrity of the human, physical and natural resources of this city from encroachment and/or dismantlement.  
  
The people have a right to expect city government to provide for its residents, decent housing; excellence in education; job opportunities; reliable, convenient and comfortable transportation; recreational facilities; organized programs of recreational activities; cultural enrichment, including libraries and art and historical museums; clean air and waterways, safe drinking water and a sanitary, environmentally sound city.
2. The city has an affirmative duty to secure the equal protection of the law for each person and to insure equality of opportunity for all persons. No person shall be denied the enjoyment of civil or political rights or be discriminated against in the exercise thereof because of race, color, creed, national origin, age, handicap, sex, or sexual orientation.
3. A person shall have reasonable access to all files and records of the city which relate to his or her rights and duties.
4. The people have a right to know the rules and regulations governing dealings between the city and the public and to a means for the review of administrative decisions.
5. The police forces of the city are in all cases and at all times in strict subordination to the civil power.
6. The city shall endeavor to require application of the principle of one person-one vote to the policy-making body of any regional or other multi-jurisdictional organization which taxes or provides any service to city residents or takes any action affecting the city's interests.
7. The enumeration of certain rights in this Charter shall not be construed to deny or disparage others retained by the people.
8. The city may enforce this declaration of rights and other rights retained by the people.

